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UNDER
SEAL

Prob12C
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Rev. March 2017

**United States District Court
for
the District of Nevada**

**PETITION FOR WARRANT
FOR OFFENDER UNDER SUPERVISION**

Name of Offender: **Gilbert Soto**

Case Number: **2:15CR00146**

Name of Sentencing Judicial Officer: **Honorable James C. Mahan**

Date of Original Sentence: **June 13, 2016**

Original Offense: **Felon in Possession of a Firearm**

Original Sentence: **37 Months prison, followed by 36 Months TSR.**

Date Supervision Commenced: **July 3, 2018**

PETITIONING THE COURT

☒ To issue a warrant:

The probation officer believes the offender has violated the following condition(s) of supervision:

1. **Shall Not Unlawfully Possess Controlled Substance** - You shall refrain from any unlawful use of a controlled substance. You shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually. Revocation is mandatory for refusal to comply.

A. Soto confirmed positive for marijuana on the following dates:

August 31, 2018
September 6, 2018
September 20, 2018
October 2, 2018
October 7, 2018

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October 13, 2018

B. Soto failed to report for drug testing on the following date:

September 13, 2018

C. On August 30, 2018, during a home visit with the undersigned officer, Soto admitted that on August 15, 2018, he used an oxycodone pill that was not prescribed to him.

D. On September 20, 2018, Soto tested positive for hydrocodone. Soto admitted to using prescription pain medication which was not prescribed to him.

2. You shall refrain from excessive use of alcohol and shall not purchase, possess, use or distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician

A. On October 22, 2018, Soto reported to the undersigned officer that he has purchased marijuana from "smoke shops" and has used marijuana by himself. As such, Soto was in possession of a controlled substance.

3. Substance Abuse Treatment – You shall participate in and successfully complete a substance abuse treatment and/or cognitive based life skills program, which will include drug/alcohol testing and/or outpatient counseling, as approved and directed by the probation office. You shall refrain from the use and possession of beer, wine, liquor, and other forms of intoxicants while participating in substance abuse treatment. Further, you shall be required to contribute to the costs of services for such treatment, as approved and directed by the probation office based on your ability to pay.

A. Soto failed to attend individual counseling sessions on the following dates:

September 18, 2018

October 2, 2018

October 4, 2018

October 16, 2018

October 23, 2018

B. Soto failed to attend group counseling sessions on the following dates:

September 20, 2018

October 5, 2018

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October 12, 2018
October 19, 2018

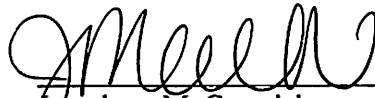
U.S. Probation Officer Recommendation:

The term of supervision should be:

☒ Revoked

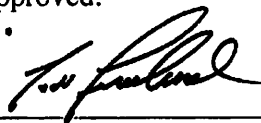
I declare under penalty of perjury that the
information contained herein is true and correct,

Executed on **October 29, 2018**



Jessalynn McCormick
United States Probation Officer

Approved:



Todd J. Fredlund
Supervisory United States Probation Officer

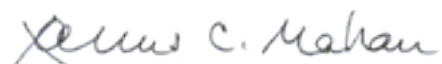
Todd Fredlund
2018.10.29 16:27:44
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THE COURT ORDERS

- ☐ No Action.
- ☒ The issuance of a warrant.
- ☐ The issuance of a summons.
- ☐ Other:



Signature of Judicial Officer

October 30, 2018

Date

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**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA
UNITED STATES V. GILBERT SOTO, 2:15CR00146**

**SUMMARY IN SUPPORT OF PETITION FOR WARRANT
October 29, 2018**

On June 13, 2016, Soto was sentenced by Your Honor to thirty-seven (37) months imprisonment followed by three years of supervised release for committing the offense of Felon in Possession of a Firearm. On July 3, 2018 Soto commenced supervised release.

Since the inception of his supervised release Soto has demonstrated that he is unable to follow the Court's orders surrounding his mandated drug testing and treatment condition. Soto has tested positive for marijuana six times and admitted to taking illicit prescribed opiate pain medication on two separate occasions.

On August 30, 2018, Soto admitted to the undersigned officer that he had taken illicit oxycodone prescription pain medication on August 15, 2018. Soto further indicated that he had purchased the pill "off the streets," because he had tooth pain and did not have dental insurance. He was admonished for taking controlled narcotic medication that was not prescribed to him and advised to apply for Medicaid benefits if he needed dental health coverage.

On August 31, 2018, Soto reported to the U.S. Probation office wherein he tested positive for marijuana. Soto admitted that he had smoked marijuana on August 28, 2018 with a girlfriend. Soto admitted to making a poor decision and indicated that he regretted drug use and was once again admonished for his failure to abstain from illegal drugs. On this same date, the undersigned officer referred Soto for drug treatment.

As indicated in this petition, Soto tested positive for marijuana again on September 6 and 20, 2018 and hydrocodone on September 20, 2018. On October 1, 2018, the undersigned officer contacted Soto to discuss these positive drug tests. Soto indicated that his date of last marijuana use was August 28, 2018 but when questioned further indicated that he had smoked marijuana and had taken illicit opiate medication on an unrecalled date during the week of September 23, 2018. Soto further explained that he had taken one of his father's prescribed pain pills due to having a broken tooth. Soto was once again admonished for illegal drug use and directed to see a physician if he needed medical/dental assistance.

On October 2, 2018, Soto reported to the office and submitted to a drug test which confirmed positive for marijuana. On this same date, to address his violation conduct, Soto signed a Waiver of Hearing to Modify Conditions of Supervised Release agreeing to complete 30 hours of community service within 2 months. On October 4, 2018, Your Honor so ordered the modification. It should be noted for Your Honor, that to date, Soto has failed to initiate his community service work.

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On October 22, 2018, Soto reported to the office and admitted to the undersigned that he had re-used marijuana since September 23, 2018, with a self-reported date of last use of October 7, 2018. On this same date Soto stated that he quit his employment at a warehouse job (on an unrecalled date the week of October 14, 2018) due to a wrist injury and still has not yet started his community service hours. Soto additionally reported that he is unable to abstain from marijuana use and believes he has a marijuana addiction. Soto noted that it is very easy for him to purchase legal marijuana at a "smoke shop" since it decriminalized within the state of Nevada. Soto further indicated that he was absent from group counseling the prior week because he had transportation issues and requested if the undersigned officer could remove him from group counseling because he prefers to only attend his individual counseling sessions. The undersigned officer stated that she would not remove him from groups and that he is to participate as directed with all counseling requirements until he is ready for program discharge. Soto was drug tested on this same date, which returned presumptive positive for marijuana. Laboratory confirmation remains pending.

Between August 31 and October 21, 2018, Soto has tested positive for marijuana on eight (8) occasions. As such, the U.S. Probation office requested a toxicologist with the laboratory to analyze each confirmed marijuana test to determine if these positive drug screens were the result of residual elimination or new use. According to Alere Director of Toxicology, Ms. Pizzo, Soto reused marijuana prior to the September 20, 2018 collection date. Additionally, a subsequent interpretation request was received on October 23, 2018 which indicated that Soto had reused marijuana prior to the October 7, 2018 and October 13, 2018 collection dates. Soto's self-reported date of last drug use is clearly inconsistent with lab interpretation results which indicate new drug use after the October 7, 2018 urinalysis test was collected. Therefore, Soto was dishonest to the undersigned officer about his date of last use on October 7, 2018.


On October 23, 2018, the undersigned officer telephonically contacted Soto's treatment counselor who reported that Soto had missed numerous individual and group sessions throughout the months of September and October 2018.

As noted in the petition, this is the second Court notification within a four month period since Soto commenced supervised release. Despite the efforts of the Probation office, Soto continues to engage in illegal drug use and remains dishonest when questioned about his drug use frequency. Soto has had ample time (considering he has been unemployed for several weeks) to initiate his community service hours and yet he has failed to do so. Additionally, Soto appears to be highly unmotivated and makes a marginal effort to comply with treatment requirements as directed. Considering Soto's violation conduct the U.S. Probation office is respectfully requesting the issuance of an arrest warrant to initiate revocation proceedings. In addition it is recommended that Soto be detained pending the resolution of this matter.

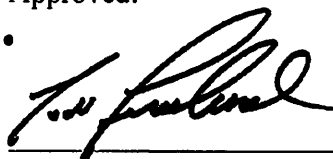
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Respectfully submitted,


Jessalynn McCormick
United States Probation Officer

Approved:

•  Todd Fredlund
2018.10.29
16:28:02 -07'00'
Todd J. Fredlund
Supervisory United States Probation Officer